

Remarks

The present Response responds to the Office Action dated January 09, 2008 having a shortened statutory period for response set to expire April 09, 2008. Filed concurrently herewith is a request for a two month extension of time to respond, making the present Amendment due by June 09, 2008.

Claims 9, 17, 18, 20, and 23-32 are pending in the application.

Amendment

Claim 1 has been amended. Applicants respectfully assert Claim 1 was not amended in response to the Examiner's rejection.

Rejection under 35 U.S.C. § 103

The Examiner rejected claims 24, 25, 27 and 28 under 35 USC 103(a) as being unpatentable over Maienfisch et al. (US 5852012) ("Maienfisch") and The Agrochemical Handbook A0891/Aug 91. The Examiner states that Maienfisch teaches the formulation of thiamethoxam with auxiliaries and optionally other actives. The Examiner agrees that the Maienfisch reference does not teach the combination of thiamethoxam with the specific active compounds claimed herein, however the Examiner reasons that one of ordinary skill in the art would have been motivated to combine thiamethoxam with the claimed additional active ingredients since each reference has the same utility. Applicants respectfully traverse this rejection.

Applicants have attached herewith the results of comparative testing data showing the unexpected and unobvious results of the present invention. The following Declaration under Rule 132 is attached:

The Declaration of Elke Hillensheim, which shows that clear, unexpected synergism was found on *Heliothis virescens* (eggs and larvae) at different ratios (see Tables 2a and 2b). For example, an ovicidal activity of 67% was found when mixing 0.23 ppm of Thiamethoxam with 0.05 ppm of Abamectin (see Table 2a). The expected activity of this mixture was 22%; this means an increase on activity of 45%. Another unexpected synergism of the mixture, Abamectin and Thiamethoxam, was found on *Plutella xlyostella* (see Table 2c). For example, a larvicidal activity of 40% was found when mixing 0.023 ppm of Thiamethoxam with 0.0025 ppm of Abamectin (see Table 2c). The expected activity of this mixture was 21.8%; this means an increase on activity of 18.2%. Also, a larvicidal activity of 45% was found when mixing 0.0115 ppm of Thiamethoxam with

0.0025 ppm of Abamectin (see Table 2c). The expected activity of this mixture was 19.96%; this means an increase on activity of 25.04%.

Based upon these results, Ms. Hillensheim declares that improved insecticidal activity is clearly unexpected, particularly in view of the individual performances of Thiamethoxam and Abamectin.

Based upon the foregoing then, Applicant submits that the 132 Declaration of Ms. Hillensheim is evidence that Applicant's claimed composition possesses unexpected insecticidal activity and further that one of ordinary skill in the art would be surprised by these results.

In light of the amendments and arguments set forth above, Applicants respectfully request allowance of all of the pending claims.

Respectfully submitted,

USPTO Customer No. 26748
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409
(336) 632-6757

/James Cueva/
James Cueva
Attorney for Applicants
Reg. No. 58,558

Date: June 09, 2008